

Federal Defenders
OF NEW YORK, INC.

Southern District
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August 23, 2024

MEMO ENDORSED

By ECF and Email

Honorable Katherine Polk Failla
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

**Re: United States v. Freddie Guadalupe-Reyes
20 Cr. 559 (KPF)**

Dear Judge Failla,

I write to respectfully request that the Court schedule a change of plea conference in the above-captioned case. Mr. Guadalupe-Reyes intends to plead guilty to the single count in the indictment, 8 U.S.C. § 1326(a), which carries a maximum term of imprisonment of two years. The parties agree that Mr. Guadalupe-Reyes' guidelines range is 0 to 6 months.¹ The parties also agree that Mr. Guadalupe-Reyes has no criminal history points.²

Mr. Guadalupe-Reyes also requests that following the change-of-plea hearing, the Court permit Mr. Guadalupe-Reyes to waive the presentence report and proceed immediately to sentencing. See Fed. R. Crim. P. 32(c)(1)(A)(ii) (authorizing the Court to make an exception to the presentence investigation requirement if it "finds that the information in the record enables it to meaningfully exercise its sentencing authority under 18 U.S.C. § 3553, and the court explains its findings on the record."). The defense believes that the Court will have the information it needs for immediate sentencing, from the Pretrial Services Report and expected submissions by both parties. As the Court is aware, Mr. Guadalupe-Reyes voluntarily surrendered on August 1, 2023 and was remanded by the Magistrate Judge. As a result, every day that goes by means he gets farther away from the opportunity to receive a bottom-of-the-guidelines sentence. Thus, an immediate sentencing proceeding in this case is in the interests of justice.

Rather than immediate sentencing, the government by Assistant United States Attorney Mitzi Steiner would "prefer an expedited PSR."

¹ Once the plea is scheduled, I expect the Government will provide the Court with a Pimentel letter.

² See expected Pimentel letter.

If the Court grants the defense request to schedule a combined plea and sentencing, we request a date the week of September 3, with submissions due by August 30. If, instead, the Court schedules a plea only and plans to schedule sentencing at a later date, the parties are available on the afternoon of August 29 and after 10:30am on August 30.

Thank you for your consideration.

Respectfully submitted,

/s/

Sylvie Levine
Counsel for Mr. Guadalupe-Reyes
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Application GRANTED. The Court has conferred with the Probation Office. At this time, the expected timing for a Presentence Investigation Report on an expedited basis is about 60 days. Accordingly, the Court permits Mr. Guadalupe-Reyes to waive the Presentence Investigation Report.

The motion hearing scheduled for October 9, 2024, is hereby ADJOURNED *sine die*. The parties are hereby ORDERED to appear for a combined change of plea hearing and sentencing on **September 5, 2024, at 3:00 p.m.**

Defendant's and Government's sentencing submissions are due on or before **August 30, 2024.**

The Clerk of Court is directed to terminate the pending motion at docket entry 15.

Dated: August 27, 2024
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE